

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

HENRY CHRISTOPHER GONZALES

Plaintiff,

v.

No. CV 18-1208 CG

ANDREW SAUL,
Commissioner of the Social
Security Administration,

Defendant.

**ORDER GRANTING UNOPPOSED MOTION FOR ATTORNEY FEES
UNDER EQUAL ACCESS TO JUSTICE ACT**

THIS MATTER is before the Court on Plaintiff Henry Gonzales' *Unopposed Motion for Attorney Fees and Costs Pursuant to the Equal Access to Justice Act (EAJA)* (the "Motion"), (Doc. 26), filed January 16, 2020. Having reviewed the Motion and noting it is unopposed, the Court finds the Motion is well-taken and shall be **GRANTED**.

IT IS THEREFORE ORDERED that attorney fees are awarded under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), payable to Plaintiff and mailed to Plaintiff's attorney in the amount of \$2,079. Plaintiff is also entitled to costs in the amount of \$400, which is to be paid by the Judgment Fund, not by agency funds. See 28 U.S.C. § 2412(c)(1); and *Astrue v. Ratliff*, 560 U.S. 586, 598 (2010) (EAJA fees are paid to the prevailing party, not the attorney).

IT IS FURTHER ORDERED that if Plaintiff's counsel receives attorney fees under both EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).



THE HONORABLE CARMEN E. GARZA
CHIEF UNITED STATES MAGISTRATE JUDGE